G. R. S. 58

Previous references.

1896
~~190~~ .

(Sep. Ref.)

Later references.

File No. 103 of 95

Serial Nos. 1—4

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1 — 4

Major

~~Part~~ B. for January 1898.

SUBJECT.

Inamdar's Claim to the Toddy Revenue of Sarvamanya Badagere, Mysore Taluk.

---

1. From - Chikka Ayengar, Inamdar of Sarvamanya Badagere; residing in Mysore.

Pet Rcd No 4146 dt - 26.6.96.
R103

Submits petition praying for the payment of the Toddy Revenue for 1891-92 of his Village, which has been held in deposit.

2. From - The Deputy Commissioner Mysore

No 412/509 - 17/18 - 7.96

GPB--8,000—7-4-07

Forwards with opinion copy of correspondence together with the records of enquiry re the claim to Toddy Revenue by the Inamdar of Badagere Village, Mysore Taluk.

3. To the Excise Commissioner in Mysore

No 6621 / Ex 238 97 - 19. 1. 1898.

Decides that the Inamdar is entitled to no more than the true rent from the date given on his village minus the cost of collection.

4. To. Sheik Anjayat, Inamdar of Dodagiri village

No 6622 / Ex 239 97. 19. 1. 98.

Intimates that his Inam title deed acknowledges the Inamdars right to the revenue accruing from date trees, but does not show that the right of Abkari is his, hence the sole right to Abkari is reserved to Government.

Commissioner

R 103 /

189 6

To Excise Branch
No 4146/96
Rcbd with the spare note.
2 Dy
17/7/96

SECTION S. R
FILE No. 103 — 95
SERIAL No. 1

No 4146

Name of Petitioner, Bhadravenkatappa alias Timmappa

Village, Inamdar of Turvamanya Doddagiri, Nanjangud Mysore

Talúk,

District, Mysore

Date of Arzi, 26-6-96

Date of Receipt, 29-6-96

Date of Disposal,

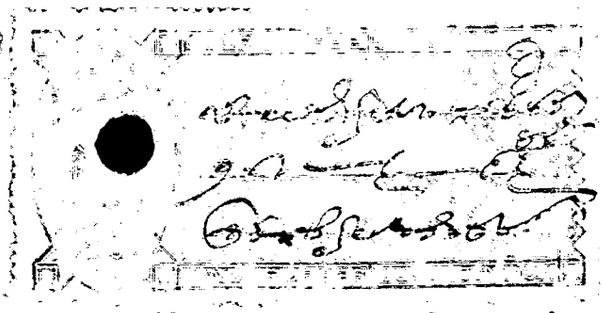
No. of Enclosure. V 2

ABSTRACT. English petn

The petitioner states that he is Inamdar of Doddagiri. By his Inam title deed he is entitled to toddy Revenue as his Inam. But he did not take this Revenue in 1891-92. The Excise Comm. has passed orders that such Inamdars as had received Revenue in 1891-92 are not entitled to the toddy Revenue. But the petitioner says that this order of Excise Comm. is against the Inam title deed given by late Highness. His right to toddy revenue was recognized at the time of the Inam settlement. It was also recognized

judicially by two Dy. Commissioners. The petitioner has submitted herewith a copy of the Judgment of the Dy. Comr. of Mysore dated 1st April 1890 for perusal. He therefore prays that the order of the Excise Comr. may be cancelled & his Toddy revenue held in deposit by Govt. may be given to him.

3-7-96



one Two Rupees Stamp affixed

To

The Secretary to the
Government of Mysore Revenue
and General Departments

MYSORE DEWAN'S OFFICE.
PETITION DEPARTMENT.
REG'D. N. 4146 R
DATE 29-6-96

Respected Sir,

The Village of Daddagere
was granted as Survamanya
by His Highness the late Maha-
-Raja Sri Krishna Raja Vadayer
Bahadur by Sunnad dated 20th
May 1827 to Gubbiatta who and
whose descendants have since
then been in the enjoyment of all
the items of revenue and fees
except that derived from Sandal
as per terms of the Sunnad.

At the Inam Settlement
the Inamdars title to the koddy
revenue of this Village has been
acknowledged by Government in
title deed No: 57755 dated 21st Dec: 1870

In 1890 in revenue Misc Case
No: I of 1890 the Inamdars rights
to the kodday revenue of the Village

has been respectfully recognized and declared by Mr. G. F. Mitchell. the then Deputy Commissioner of Mysore. Vide Copy of Judgement herewith filed.

Pursuant to the directions Contained in the aforesaid Judgement, Duddagere was specially notified as a Village wherein the Inamdar was entitled to the revenue derivable by Sale of the right of tapping of toddy trees and of the right of vending toddy.

From the Sale of such rights Rupees (948) Nine hundred and forty eight only has been realized and held in deposit by Government payable to the Inamdar.

Particulars of the realization are given below.

	1892.93	1893.94
Duddagere Shop	78-11-11	150-11-11
Do Gowdike	185-11-11	330-11-11
Total	264-11-11	480-11-11

	1894.95	1895.96	Total
Duddagere Shop	60-11-11	60-11-11	348
Do Gowdike	60-11-11	24-11-11	600
Total	120-11-11	84-11-11	948

I am the present holder of the Village and I am in possession of the Sunnad Inam title deed and other papers relating to the Village which I shall readily produce for inspection whenever called upon.

When I applied for payment of the money decreed to me as above the Deputy Commissioner granted the accompanied Endorsement stating that the Excise Commissioner had prohibited payment of toddy revenue to all such Inamdars as had not received toddy revenue in 1891-92.

I therefore beg leave to appeal to the Government against the arbitrary and unjust order of the Excise Commissioner which is calculated to destroy the important rights vested by solemn Sunnads issuing from the Sovereign authority.

The order under appeal when applied to my case is found to ignore not only the Maha Raja Sunnad and the Inam title deed but also the fact that two Deputy Commissioners Mr. G. F. Nicholson and Mr. B. H. Venkatavarada Iyengar have

judicially recognized rights of the hereditary owners of the Village and ordered its enforcement.

The order under appeal is unreasonable as it entails the highly disproportionate consequence of forfeiture of the right upon non-receipt of the revenue for one of two years 1891-92. The non-receipt may be owing to various causes for instance, Smallness of the amount absence of the Inamdar otherwise engaged or a confidence that Government would protect the rights of the Inamdars in the same way that it guards its own.

It is a well established principle of law that when once a right is recognized as existing and that right is of a recurring nature (as in this case of yearly payments) mere non-enforcement of the right or non-payment according to the right for any number of years will not destroy the right nor affect the mere enforcement of the right. If an Inamdar did not choose to enforce his rights for one year or number of years he has merely

waived or lost his right to the revenue remains unaffected.
The Excise Commissioner has failed to appreciate the acquiescence of Mr. G. T. Mackley's decision holding that as the Inamdar did not advance his claims at the proper time in 1890 but that thereafter his right to the kodday revenue should be recognised and respected.

It is possible that in the Excise Commissioner's order may be taken to mean that the prohibition refers only to those Inamdars who have not only failed to assert the rent in 1891-92 but whose rights have not been judicially recognised. My case however is different as I hold judgement of the revenue Courts in addition to Sunnad and the kittle deed. Surely the existence of a right is proved as much by judgement of competent Courts or authorities declaring its existence as by its actual enforcement. For 1891-92 the Excise Commissioner insists that Inamdars should have actually received kodday

Revenues I take a judgement declaring my right to the Village Revenues for 1874 and all future years and directing that payment should be duly made pursuant to Section 871 and Article of

In Conclusion I humbly submit that my right to the Village Revenues of the Village should be the Main Relief claimed in the Statement of Judicial Review by the Petitioner, and that the Respondents should be duly restrained by the Order of this Honourable Court; and that the Respondents may be ordered to pay the costs of this Petition.

I beg to remain
Respected Sir
Your most obedient servant
[illegible]
Petitioner

Received Service
[illegible]
for Respondents

Cudo lost 1

In the Court of the Deputy Commissioner, Mysore District.

Revenue Miscellaneous Case No. 1 of 8[illegible]

Present G. F. Micklejohn Esquire
Barrister at Law
Deputy Commissioner Mysore &c.

Petitioner
Girisbatta
alias Dhammayya

Defendant
~~1 of~~ Mr. V. Seshagiria Rao
Abkari Executive
Mysore District

Claim for Todday rent of the Inam Village of Dudduguna, in the Mysore Taluq, against the Defendant from 1st April 1890, as per Inam Summ[illegible]

Order.

Under para 6 disputes between the Lessee and the Inamdar aforesaid regarding the rights of the latter to the Todday Revenue or the amount of Todday revenue payable by the former to the latter are to be decided by me in

in accordance with reason and justice.

It appears from the Indian title deed that in 1814 it was decided that he is entitled to the revenue accruing from the date thereof, he has, however, failed to obtain them hitherto. Consequently anything for this right. Having had 5 lakhs over this right for so long I do not think I can now do the same. Contractor you must pay although your predecessors never did. The Contractor has himself to blame if he does this year's payments in that he has failed to give warning of his intention to claim his rights. In the usual contract it should be entered in the Instructions that Deddagatti is one of the Villages with which the Contractor has to arrange; but for the present Contract I decline to refer.

Dharwar
2nd Dec. 1870

(Signed) G. S. Forbes
Deputy Commissioner
Dharwar District

"Copy"

"Authenticated Copy"

In the Office of the Deputy Commissioner of the Mysore District.

Enquiry was held into the Claim of M. V. Chelva Iyengar the holder of the Sarvamanya Inam Village of Duddungere in the Mysore Taluq to the Kodoly revenue thereof.

2. This Village was granted as Sarvamanya by H. H. the late Maha Rajah Sri Krishna Raja Wadeer Bahadur by Sunnud dated the 20th May 1827 to Ruthwick Giridhatta. In that Sunnud it has been stated that all the items of revenue & forest produce that annually from Sudal are conceded to the Inamdar. Further the Claim to the Kodoly revenue of this Village has been acknowledged at the Inam Settlement in the deed No: 57705 of the 21st December 1866

"But in proof of the contrary of this item of income the present holder of the Village who brought it on the 21st January 1896 has not produced any document."

He has however produced a copy of the order passed by Mr. G. F. Knuckey the former Deputy Commissioner of this District in Rev: Misc: Case No: I of 1890 in which it is stated that though the Inamdar is entitled to the sadr jama of the Village as per Inam title deed; yet as he failed to enforce that right nothing could be awarded. The present holder of this Village says that he is not able to say when the previous Inamdar failed to enforce this right. The Revenue Officer has decided and the said decision gives him the right to this Revenue claim so it is valid.

Vide for the sadr jama of the Village for the years 1892-93, 1893-94, 1894-95, 1895-96 Exhibit

realised by Government Should
be paid to him I think. -
The Amounts realised are as follows. -

	1892-93	1893-94	1894-95	1895-96	Total
Duddenguê Shop	78-"-"	150-"-"	60-"-"	60-"-"	348
Do Grove	186-"-"	330-"-"	60-"-"	24-"-"	600
Total	264-"-"	480-"-"	120-"-"	84-"-"	948

6/5/96

[illegible] B. K. Venkatarama Iyengar
Deputy Commissioner

"Compared"
[illegible] Ln. Venkatesam.

" Coker "
[illegible] M. G. Krishna Iyengar
Revenue Sheristadar
Mysore Division

	1892-93	1893-94	1894-95	1895-96	Total
Duddungudi Shop-	78-0-0	160-0-0	60-0-0	60-0-0	348
Do Grove	186-0-0	330-0-0	60-0-0	24-0-0	600
Total	264-0-0	480-0-0	120-0-0	84-0-0	948

12/6/96

15

Sl. No: 148

SECTION S.R

FILE No. 103-96 Gen. 30.]

SER'AL No. 2 From

REVENUE DEPARTMENT
Gl. No. 526
Exs 2
1896 JUL 96
DEWAN'S OFFICE.

The Excise Commissioner
in Mysore.

To

The ~~Chief~~ Secretary to the
Govt. ~~Dewan~~ of Mysore.

Dated 17th July 1896.

Despatched 18th July 1896.

Received

Enclosure No. 1 and 1 file

General No. 412
No. 50

In reply to

SUBJECT.

Forwards with opinion copy of correspondence together with the records of enquiry relating to the claim to Toddy Revenue preferred by the Quandar of Doddagere Village Mysore Taluk.

Submitted for orders.

Petition No 4146 of 26th June/96 from the Jodidar concerned was submitted to the Secretary on the 29th July 1896.

30/7/96

30/7/96

Subd to Secty

The Excise Comr differs from the Dy Comr Mysore Dt as regards the Quandars' right to toddy

31/7/96

Record sent back for investigation in accordance with Govt. Proc. No. 2074-83 R.T. 16-92

2/8/04

Rev D. I. G.

References (to be entered only in the Dewan's Office.)

Excise Commissioner's Office
Bangalore, 17th July 1896.

No: 412/50.
Env: 18 / file

From,

The Excise Commissioner
in Mysore.

To,

The Secretary to the
Government of Mysore
General and Revenue
Departments.

Sir,

In submitting, herewith, copy of the marginally noted correspondence and records relative to the claim to Toddy Revenue preferred by the Inamdar of Buddagere village in the Mysore taluk, I have the honor to state that it will be seen from the accompanying authenticated copy of the Sunnad of the village that the Sunnad does not expressly authorize the

1. Docket No: 2235, dated the 31st May 1896, from the Deputy Commissioner, Mysore District, with its original enclosures.
2. Letter No: 4952/996, dated the 4th January 1896, to the Superintendent of Inam Settlement.
3. Docket No: 148, dated the 12th June 1896, from — ditto —.
4. Docket No: 2459, dated the 25th June 1896, from the Deputy Commissioner, Mysore District.

the grantee to levy abkari revenue;
and that neither arrack, nor toddy, nor
drug, is included in the items of the
Beriz, alienated to the grantee. The
grantee has not proved his enjoyment
of the abkari revenue. Therefore as per
Government Proceedings No: 3697/Rev: 30, dated
the 8th October 1873, the Inamdar of
the said Village is not entitled to Excise
Revenue from Toddy. Accordingly, the
following remarks have been made
in the accompanying Inam Settlement
Register:- "The Inamdar is not in the
"enjoyment of Sayer revenue from the
"commencement. As he has slept
"over his claim, I think he cannot now
"get it. Sayer, right of abkari, and
"Sandal are reserved." This decision
"of the Inam Assistant Superintendent
"has been confirmed by the Superintendent
I do not therefore agree with the Deputy
Commissioner, Mysore District, that
the Inamdar is entitled to Excise Revenue
from Toddy; but I am of opinion that
the Inamdar is entitled only to the rent
of the date trees in his village utilized
by Government farmers for the
manufacture of Toddy. Accordingly,
the

the revenue derived from the shop, should be credited to Government and that from the date grove in the Village minus the cost of collection, should be paid to the Duanndar.

I have the honor to be,

Sir,

Your most Obedient Servant

M Purnaiya

Excise Commissioner

in Mysore

Encl to Ltr 2

20

From The Deputy Commissioner
of the Mysore District

To The Excise Commissioner
in Mysore

Dated 31st May 1896
Camp Chamarajnagar

No. 2235

Enclosure No. 4.

Begs to forward herewith copy of the order passed by the undersigned regarding the claim of the holder of the Sarvamanyam village of Duddagéré in the Mysore Taluk to the Toddy Revenue thereof. A statement in the prescribed form containing the particulars of the village as well as the vernacular record of the case so enclosed as also a copy of the Sanad relating to the grant of the said village as

Sarvamanya

9/

Survamanya to R. Giribhatta.

(Sd) B. L. Venkataraadaiengar
Deputy Commissioner
of the Mysore District.

From The Excise Commissioner
in Mysore

To The Superintendent of
Inam Settlements

Dated 4/5 th June 1896

No 4952/996

Sir,

I have the honor to request to be furnished for reference with an extract from the Inam Settlement Register of Duddagere Survamanya village in the Mysore Taluk

I have &c

(Sd) P. A. Parnaya
Excise Commissioner
in Mysore.

Encl 1 to 2

From

The Superintendent of
Inam Settlements

To

The Excise Commissioner
in Mysore.

Dated 12/13th June 1896.

Mis. No. 148

Enclosure No. 1

His letter No. 4952/996 dated ~
4/5th June 1896.

As requested in the above, has the honor to forward herewith a copy of the Inam Register, case No. 1 of Duddagere village Sarvamanium of the Mysore Taluk

(Sd) J. P. Grant
Supt of Inam Settlo

From

The Deputy Commissioner
Mysore District

To

The Excise Commissioner
in Mysore.

Dated

93

Dated 26th June 1896.

No. 2459.

Enclosure No. 4.

His docket No 5233/257 of the 17th June 1896 returning the record relating to the claim to the Kaddy revenue preferred by the Inamdar of Dudidagere in the Mysore Taluk.

Has the honor to return the record referred to in the above with the Sanad filed therewith duly authenticated.

(Sd) B. K. Venkataradiengar
Deputy Commissioner
Mysore District

"Copy"

D Murray
Excise Commissioner
in Mysore.

SECTION S.R

FILE NO. 103-95

SERIAL NO. 3

2 dfts 24

Read:-
Petition from Chelva Dyenpar alias Sampathu Dyenpar Inamdar of Dudpere village in Mysore dist. in the matter of his claim to Toddy Rev. of that village.

Rec'd no 4146 & 26.6.96.

Reminders to No 4146 of 26.6.96
D. 2772 } Vol III
" 2773 } Vol III
" " 2987 & 3.4.97
" " 390 & 3.8.97.

(2) Also letter D. No 412/50 & 17th July 1896 from the Excise Comm'r in Mysore forwarding with his opinion, the records of the enquiry relating to the subject, above claim

6621.

Order thereon:- No Cr. 238 19/1/98

Of the documents relied on by the Petr., the Sanad of 1827 does not expressly authorize the levy of Abkari revenue, and the benefit alienated does not include toddy drawn or drawn

The Inam Title deed acknowledges the Inamdar's right to "the revenue accruing from date trees", but this is a very different thing from "Excise revenue" or right of Abkari" which, the

same

same title deed expressly

reserved to Government. ~~The~~ Under these circumstances the Petr. is entitled under the new system of Land Administration to no more than the tree-rent from the date of grant in his inam village minus the cost of collection. The tree-tax as well as the

~~Excise Commr. is therefore right in stating that the~~ revenue derived from the ~~drums~~ shops should be credited to Government. and ~~that~~ from the ~~date such~~ in the village minus cost of collection, paid to the Inamdar. ~~Under~~ ~~Government should~~ direct that under the new ~~tree tax~~ System, tree rent (~~not the whole tree tax~~) is all that the Inamdar ~~may become~~ is entitled to.

12-1-98

11/1/98 Secretary

4/1/98

The Excise Commr.

SECTION S.R
FILE NO. 103-95
SERIAL NO. 4

bb22
Sr239 of 19/1/98.
19.

96

~~With regard to his petition~~
End^r granted to
Cheluva Iyengar alias Sampathu Iyengar
Inamdar of Dudgere village,
Mysore Distt, - - - - - - - -
in reply to his petition
Rec^d no 4140 of 26.6.96
" 2987 of 3.4.97
" 390 of 3.8.97
laying claim to the toddy
revenue of the Dudgere village.

Of the documents relied on by the petitioner, the Sannad of 1827 does not expressly authorize the levy of Abkari revenue, and the being alienated does not include toddy, arrack or drug. The Inam title-deed acknowledges the Inamdar's right to "the revenue accruing from date trees," but this is a very different thing from "excise-revenue" or "right of Abkari" which the same title-deed expressly reserves to Govt. under these circumstances the petitioner is entitled under the new system of toddy administration to no more than the tree-rent from the date trees in his inam village minus the cost of collection. The tree tax as well as the revenue derived from the shops ~~shall be credited to Govt~~ will be credited to Govt

14/1/98